

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS

CLERK OF DISTRICT COURT
NORTHERN DIST. OF TX
FORT WORTH DIVISION
FILED

COMPLAINT OF VIOLATION OF CIVIL RIGHTS

Plaintiff, Bogdana Osipova (Mobley), dual citizen of Russia and United States of America is a resident of Queens, NY 11416 is temporary detained at FSL Danbury, CT, 33 1/2 Pembroke Rd., Route 37, Danbury, CT 06811, while awaiting the finalization of the her appeal.

Plaintiff names Defendants as: FMC Carswell, Naval Air Station, J ST. BLDG 3000, Fort Worth TX 76127; Dwain Robertson, Charles Langham, nurses and its employees in official and individual capacity who was involved in this case. Plaintiff proceeds pro se and in forma pauperis due to Plaintiff's financial inability to pay the fees.

Jurisdiction

4-20CV-662-P

Federal question. Venue is proper in this Court under 28 U.S.C. 1331 because the event giving rise to this complaint occurred in this judicial district, and agency in question and its employees are located in this judicial district as well. This case is for 42 U.S.C. 1983; Federal Tort Claim; Bivens Action, Diversity action; Violation of United Nations Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

Statement of facts:

On September 28, 2017 Plaintiff was arrested in Wichita, KS and later detained at Butler County Jail in El Dorado, KS. Plaintiff was 37 years old, mentally healthy pre-trial detainee, without prior criminal or psychiatric history. On December 18, 2017 Plaintiff as a pre-trial detainee was transferred via ground ambulance to FMC Carswell in Fort Worth, TX in semi-coma state, severely dehydrated with NMS (neuroleptic malignant syndrome). At the end of January 2018 Plaintiff was found incompetent to stand trial. After 7.5 month staying at FMC Carswell, TX Plaintiff's competency to stand trial was restored in the beginning of July 2018. Plaintiff suffered from memory loss and has no recollection of anything from about December 8, 2017 until late March-beginning of April 2018. Upon arrival at FMC Carswell in December 2017 Plaintiff had 2 inches below shoulder length hair, but was in semi-coma state, thus unable to care for herself. At the end of January 2018 Plaintiff's identity was involuntary altered (hair was cut to 1 inch of length due to alleged pediculosis) without Plaintiff's consent, court's order or Plaintiff's attorneys knowledge. When Plaintiff saw herself in the mirror for the first time around March 2018 with 1 inch long hair she went through shock, fear, pain, confusion etc. She couldn't recognize herself and was very traumatized. After numerous unsuccessful attempts to obtain copy of Plaintiff's medical records from FMC Carswell, in October 2019 Plaintiff filed standard form 95 (claim for damage, injury or death) to U.S. Department of Justice, FBOP, South Central Regional Office at 344 Marine Forces Drive, Grand Prairie, TX 75051 (copy enclosed). On January 22, 2020 Plaintiff received response to her claim (administrative tort claim number TRT-SCR-2020-00509) stating that : "claim has been considered for administrative settlement under Federal Tort Claims Act, Title 28, United States Code, Section 2672 et seq., and authority granted by Title 28, Code of Federal Regulation, Section 0.172. Claim of Government liability in the amount of seven million five hundred eighty thousand dollars and no/100 dollars (\$7,580,000.00) for alleged personal injury." Plaintiff claim was denied and she was advised in this letter that she was afforded six months from the date of the mailing of that communication within which to bring suit in the appropriate United States District Court (copy of this letter is enclosed). On February 11, 2020 Plaintiff sent a letter to South Regional Office requesting copy of the investigation results (copy of the letter enclosed). On May 4, 2020 Plaintiff received a response to the February 11, 2020 letter that she should forward her request to a different address (copy of the letter enclosed). On May 8, 2020 Plaintiff mailed the request to FOIA/Privacy Act Section in Washington, DC and on May 20, 2020 received a response stating that the request processing might take up to nine months (copy enclosed). Originally Plaintiff was under the impression that her hair was cut at the end of December, 2017 shortly after her transfer to

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FMC Carswell from Kansas.

However, in the beginning of May 2020, Plaintiff received some of her medical records from the FSL Danbury Health Services and upon review, discovered that she allegedly had lice infestation at FMC Carswell on 1/20/2018 and on 1/23/2018 her hair was cut.

Not only the Plaintiff should not have been infected with the lice under these circumstances, but if it even occurred (which Plaintiff doesn't know for a fact), there are shampoo treatments to cure the pediculosis. Defendants purposely acted with intent to punish, humiliate and degrade Plaintiff.

Therefore Plaintiff is suing the Defendants for:

Count 1

Severe medical negligence to Plaintiff while in semi-coma state (improper insufficient hygiene).

Count 2

Alleged lice infestation to Plaintiff while in care of FMC Carswell unable to care for herself.

Count 3

Uncontested unlawful unauthorized alteration of Plaintiff identity.

Plaintiff's right were violated.

Plaintiff had protection of Fifth Amendment through due process clause of Fourteenth Amendment of Constitution of the United States of America.

Due process standard of Fifth amendment, since due process clause prohibits punishment prior to conviction.

Constitutional issue rests on determination of whether conditions of confinement are punitive in nature and whether detention facility officials have acted with intent to punish inmates. Campbell v Canthron, 623 F. 2d 503 (8th Cir. 1980).

Due process clause of Fifth Amendment of Constitution of United States protects pre-trial detainees from punishment or jail conditions which amount to punishment, and if restriction or condition is not reasonably related to legitimate goal of custodian to maintain security in institution, court permissibly can infer that purpose of governmental action is punishment that may not constitutionally be inflicted upon detainees qua detainees. Malone v. Colyer, 710 F.2d 258 (6th Cir. 1983)

Plaintiff seeks compensation for personal injury, pain and suffering of seven million five hundred eighty thousand dollars and no/100 dollars (\$7,580,000.00), punitive damages that Court deem appropriate from Defendants.

Plaintiff seeks punitive damages which are awarded not to compensate the victims but to "punish outrageous behavior and deter such outrageous and neglectful conduct in the future".

Respectfully submitted by,

~ BOGDANA OSIPOVA (MOBLEY)

FBOP Register # :
28882-031

⇔28882-031⇔

Bogdana Osipova Mobley
33 1/2 Pembroke RD
Route 37
Danbury, CT 06811
United States

CLAIM FOR DAMAGE, INJURY, OR DEATH		INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.		FORM APPROVED OMB NO. 1105-0008	
1. Submit to Appropriate Federal Agency: <i>SOUTH CENTRAL REGIONAL OFFICE US ARMED FORCES RESERVE COMPLEX 344 MARINE FORCES DR. GRAND PRARIE, TX 75051</i>			2. Name, address of claimant, and claimant's personal representative if any. (See instructions on reverse). Number, Street, City, State and Zip code. <i>BOGDANA OSIPOVA (MOBLEY) #28882031 33 1/2 PEMBROKE RD, ROUTE 37 DANBURY, CT 06811</i>		
3. TYPE OF EMPLOYMENT <input checked="" type="checkbox"/> MILITARY <input checked="" type="checkbox"/> CIVILIAN	4. DATE OF BIRTH <i>8-5-1980</i>	5. MARITAL STATUS <i>DIVORCED</i>	6. DATE AND DAY OF ACCIDENT <i>DECEMBER 18-31, 2017</i>	7. TIME (A.M. OR P.M.) <i>NA</i>	
8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary). <i>ON DECEMBER 18, 2017 in state of comt i was transported via ambulance to FMC CARSWELL IN FORT WORTH, TX FROM BUTLER COUNTY JAIL IN EL DORADO, KS. I HAD 2 INCHES BELOW SHOULDER LENGTH HAIR. BY THE END OF DECEMBER 2017 NURSES AT FMC CARSWELL CUT MY HAIR, LEAVING 1 INCH OF HAIR ALTOGETHER DUE TO ALLEGED LICE INFESTATION. MY IDENTITY WAS ALTERED WITHOUT MY CONSENT, COURT-ORDER. WHEN I CAME BACK OUT OF COHA AND SAW MYSELF THE WITHOUT HAIR I WAS SHOCKED, CONFUSED, SCARED IN FEAR AND PAIN.</i>					
9. PROPERTY DAMAGE					
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code). <i>NONE</i>					
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED. (See instructions on reverse side). <i>NONE</i>					
10. PERSONAL INJURY/WRONGFUL DEATH					
STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT. <i>1. SEVERE MEDICAL NEGLIGENCE TO PRE-TRIAL DETAINEE IN A COHA STATE (IMPROPER INSUFFICIENT HYGIENE) PHYSICAL, MENTAL AND EMOTIONAL INJURY AND DAMAGE 2. ALLEGED LICE INFESTATION 3. UNCONSENTED UNLAWFUL UNAUTHORIZED ALTERATION OF PRE-TRIAL DETAINEE'S IDENTITY.</i>					
11. WITNESSES					
NAME		ADDRESS (Number, Street, City, State, and Zip Code)			
<i>JULIANA AND ANTONI FILIPIUK NURSES AND STAFF AT FMC CARSWELL</i>		<i>10157 92nd ST. OZONE PARK, NY 11416 CARSWELL FMC, NAVAL AIR STATION, J ST. BLDG 3000, FORT WORTH, TX</i>			
12. (See instructions on reverse). AMOUNT OF CLAIM (in dollars)					
12a. PROPERTY DAMAGE <i>NONE</i>	12b. PERSONAL INJURY <i>\$7,580,000 (seven million five hundred eighty thousand dollars)</i>	12c. WRONGFUL DEATH <i>NONE</i>	12d. TOTAL (Failure to specify may cause forfeiture of your rights). <i>\$7,580,000 (seven million five hundred eighty thousand dollars)</i>		
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.					
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side). <i>BOGDANA OSIPOVA (MOBLEY) B. Mobley</i>			13b. PHONE NUMBER OF PERSON SIGNING FORM <i>NA</i>	14. DATE OF SIGNATURE <i>11-11-2019</i>	
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).			CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.)		

SEE
ADDIT
DRAFT
PAGE.

Attachment for Standard Form 95 from 11-11-2019 for Bogdana (Mobley)

I was transferred from Butler County Jail, El Dorado, KS to FMC Carswell, Fort Worth, TX on December 18th, 2019.

I had 2 inch below shoulder length hair and no lice.

I was in a coma state.

At the end of December 2017 nurses at FMC Carswell without my consent or court order, unlawfully altered my identity by cutting my hair to 1 inch length.

This is cruel and unusual punishment of pre-trial detainee which is prohibited by law.

This act was done allegedly due to lice infestation.

This means that I was also subject to insufficient improper hygiene care, and since I was incapable to do it myself due to health condition, it was nurses responsibility to properly care for me.

This is severe outrageous malpractice.

If "lice" was the case there are shampoo treatment that are available and is usually used for lice treatment.

Instead my identity was altered by cutting my hair.

I was in complete state of shock, panic, fear, pain, humiliation and confusion upon seeing myself in the mirror with 1 inch long hair in March 2018.

I couldn't recognize myself.

I am still traumatized from this inhumane cruel treatment.

My hair is still short as it is growing very slowly.

I suffer everyday from this unlawful action of medical personnel at FMC Carswell, TX.

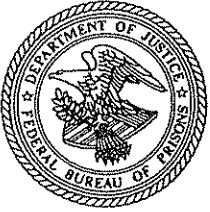
I was found incompetent to stand trial in January 2018, and my competency was restored in July 2018.

Appropriate actions should be taken for remedy, compensation of claimant for physical, mental and emotional injury and damages and punitive damages should be allocated to prevent this type of violations in future.

So if need be I claim the right for extension to file tort claim due to my incompetency for 7 months out of two year period to file a tort claim.

Please take action on this violation of my rights and help prevent it in future to any other person.

So help me God!



U.S. Department of Justice

Federal Bureau of Prisons

South Central Regional Office

344 Marine Forces Drive
Grand Prairie, Texas 75051

CERTIFIED MAIL: 7014 1820 0000 1511 3066

January 22, 2020

Bogdana Mobley, Reg. No. 28882-031
FCI Danbury
Route 37
Danbury, CT 06811

RE: Administrative Tort Claim Number - TRT-SCR-2020-00509

Ms. Mobley:

Your claim has been considered for administrative settlement under the Federal Tort Claims Act, Title 28, United States Code, Section 2672 *et seq.*, and authority granted by Title 28, Code of Federal Regulations, Section 0.172. You claim government liability in the amount of seven million five hundred eighty thousand dollars and no/100 dollars (\$7,580,000.00) for alleged personal injury.

The Federal Tort Claims Act § 2672 delegates to each Federal agency the authority to consider, determine, and settle any claim for money damages against the United States for loss of personal property or injury caused by the negligent or wrongful act or omission of any employee of the agency while acting within the scope of his office or employment.

You allege that in December 2017, while incarcerated at the Federal Medical Center – Carswell (FMC Carswell), you had a lice infestation due to the negligence of FMC Carswell staff and your hair was cut without your consent while you were in a coma.

Investigation of your claim failed to reveal any evidence to substantiate your allegations. There is no evidence to indicate you sustained any injuries caused by the negligent or wrongful act or omission of any government employee acting within the scope of employment. Therefore, your claim is denied.

You are advised that if you are dissatisfied with our determination in this matter, you are afforded six months from the date of the mailing of this communication within which to bring suit in the appropriate United States District Court.

Sincerely,

A handwritten signature in black ink, appearing to read "Jason A. Sickler".

Jason A. Sickler
Regional Counsel

cc: M. Carr, Warden, FMC Carswell

SENSITIVE BUT UNCLASSIFIED

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OVER →



U.S. Department of Justice

Federal Bureau of Prisons

South Central Regional Office

*U.S. Armed Forces Reserve Complex
344 Marine Forces Drive
Grand Prairie, Texas 75051*

MAY 04 2020

Bogdana Mobley
Register Number 28882-031
FCI Danbury
33 ½ Pembroke Road, Route 37
Danbury, CT 06811

RE: Correspondence

Dear Bogdana Mobley:

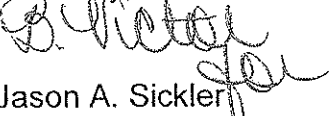
This is in response to your recently received correspondence wherein you request copies of records that may be maintained by the Federal Bureau of Prisons.

In accordance with Title 28, Code of Federal Regulations, Section 16.3, please direct your correspondence to:

Freedom of Information Act/Privacy Act Section
Office of General Counsel, Room 924
Federal Bureau of Prisons
320 First Street, N.W.
Washington, D.C. 20534

Please ensure your correspondence and the envelope are clearly marked "FREEDOM OF INFORMATION REQUEST." Additional information is provided at Title 28, Code of Federal Regulations, Section 513.50, et. seq.

Sincerely,


Jason A. Sickler
Regional Counsel

JAS/vm

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OVER →



**U.S. Department of Justice
Federal Bureau of Prisons**

*South Central Regional Office
U.S. Armed Forces Reserve Complex
344 Marine Forces Drive
Grand Prairie, TX 75051*

May 20, 2020

Bogdana Mobley
Reg. No. 28882-031
FCI Danbury
Route 37
Danbury, CT 06811

Dear Bogdana Mobley:

The Federal Bureau of Prisons (BOP) received your Freedom of Information Act/Privacy Act (FOIA/PA) request. Your request has been assigned a number and forwarded to the processing office noted below. Please make a note of the request number and processing office as you will need to include it in any correspondence or inquiry regarding your request. A copy of the first page of your request is attached to help you more easily keep track of your request.

FOIA/PA Request Number: 2020-04035
Processing Office: SCR

The time needed to complete our processing of your request depends on the complexity of our records search and the volume and complexity of any records located. Each request is assigned to one of three tracks: simple, complex, or expedited. Due to the large number of FOIA/PA requests received by BOP and the limited resources available to process such requests, BOP handles each request on a first-in, first-out basis in relation to other requests in the same track. Your request was assigned to the complex track and placed in chronological order based on the date of receipt.

We determined unusual circumstances exist as the documents responsive to your request must be searched for and collected from a field office, and/or the documents responsive to your request are expected to be voluminous and will require significant time to review, and/or your request requires consultation with at least one other agency with a substantial interest in your request. Because of these unusual circumstances, we are extending the time limit to respond to your request for the ten additional days provided by the statute. Processing complex requests may take up to nine months. Pursuant to 28 C.F.R. § 16.5(b) and (c), you may narrow or modify your request in an effort to reduce the processing time.

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OVER →

MOBLEY, Bogdana
Reg. No.: 28882-031
Page 2

Pursuant to 28 C.F.R. § 16.10, in certain circumstances we are required to charge fees for time spent searching for or duplicating responsive documents. If we anticipate your fees will be in excess of \$25.00 or the amount you have indicated you are willing to pay, we will notify you of the estimated amount. At that time, you will have the option to reformulate your request to reduce the fees. If you requested a fee waiver, we will make a decision whether to grant your request after we determine whether fees will be assessed for this request.

If you have any questions or wish to discuss reformulation or an alternative time frame for the processing of your request, please feel free to contact the South Central Region (SCR) or the Federal Bureau of Prisons' (BOP) FOIA Public Liaison, Mr. C. Darnell Stroble at 320 First Street NW, Suite 936, Washington DC 20534.

Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information, Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, Maryland 20740-6001.

Please be advised that due to necessary operational changes as a result of the national emergency concerning the novel coronavirus disease (COVID-19) outbreak, there may be some delay in the processing of your request.

Sincerely,


SCR/sae

To whom it may concern

Administrative Tort Claim Number -TRT-SCR-2020-00509

I received a letter from you dated January 22, 2020 on February 7th, 2020.

Please mail to me a copy of the result of investigation of my claim that you conducted (per your letter).

I need it for my records as well as for the future steps in regards with the law suit in US District Court.

Thank you in advance.

~Regards,

p.s. Also I requested all of my records from Carswell on numerous occasions but never gotten them.

Please forward all of my records to me as soon as you can (medical, administrative, all of them).

To whom it may concern,

On February 11th, 2020 after receiving the letter that investigation was done, I've requested the results of the investigation of the Tort claim# TRT-SCR-2020-00509, that I've previously filed.
Yesterday I've received the letter dated May 4th, 2020 that I need to forward my request to you.
Please mail back to me all of the records pertaining to me and the results of the investigation that was conducted in response to the above mentioned tort claim. As well as copies of my medical and administrative records.
Thank you in advance.

Regards,

JUNE 18 2020

CLERK OF DISTRICT COURT
NORTHERN DIST. OF TX
COMMUNITY DIVISION
RECEIVED

TO WHOM IT MAY CONCERN

4-20CV-662-P

(2 PAGES)
2020 JUN 25 PM 12:18

PLEASE FILE MY COMPLAINT FOR CIVIL RIGHTS VIOLATION AND

MOTION FOR APPOINTMENT OF ^{MW} ATTORNEY (1 PAGE).

SUPPORTING DOCUMENTS (8 PAGES).

THANK YOU.

⇔ 28882-031 ⇔

Bogdana Mobley
33 1/2 Pembroke RD
Route 37
Danbury, CT 06811
United States

~BOGDANA OSIPOVA (MOBLEY)

FBOP Register # 28882-031

↔28882-031↔
Bogdana Osipova Mobley
33 1/2 Pembroke RD
Route 37
Danbury, CT 06811
United States



FOREVER USA



FOREVER USA

U.S. DISTRICT COURT NORTHERN DISTRICT OF TEXAS

↔28882-031↔

Eldon B Mahon Us Courthouse
501 W 10TH ST
Room 310
FORT Worth, TX 76102
United States

Case #?

PERFORMED BY: [illegible]
DATE: 6-18-2020
THE BUREAU OF THE
SPECIAL INVESTIGATION
OF THE SECRETARY OF THE
NAVY
INFORMED BY: [illegible]
ENCLOSURE: [illegible]
TO: [illegible]
FROM: [illegible]